

ACT 290

H.B. NO. 2992

A Bill for an Act Relating to Notaries Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 456, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§456- Notaries public revolving fund. (a) There is established in the state treasury the notaries public revolving fund into which shall be deposited:

- (1) All fees, charges, or other payments received pursuant to section 456-9;
- (2) Penalties and fines for violations of section 456-3, 456-7, or 456-16;
- (3) Appropriations made for deposit into the notaries public revolving fund; and
- (4) Interest earned on money in the notaries public revolving fund.

(b) The notaries public revolving fund shall be administered by the department of the attorney general. Notwithstanding any law to the contrary, moneys in the notaries public revolving fund shall be used for personnel costs, the acquisition of equipment, and operating and administrative costs deemed necessary by the department of the attorney general to administer this chapter. The moneys in the fund may also be used to train personnel as the attorney general deems necessary, and for any other activity related to notaries public.”

SECTION 2. Section 456-1, Hawaii Revised Statutes, is amended to read as follows:

“§456-1 Appointment; [tenure.] renewal. (a) The attorney general may, in the attorney general’s discretion, appoint and commission such number of notaries public for the State as the attorney general deems necessary for the public good and convenience. The term of office of a notary public shall be four years from the date of the notary’s commission, unless sooner removed by the attorney general for cause after due hearing; provided that after due hearing the commission of a notary public may be revoked or otherwise disciplined by the attorney general in any case where any change occurs in the notary’s office, occupation, residence, or employment which in the attorney general’s judgment renders the holding of such commission by the notary no longer necessary for the public good and convenience. Each notary shall, upon any change in the notary’s office, occupation, residence, or employment, forthwith report the same to the attorney general.

(b) Each notary public shall be responsible for renewing the notary public’s commission on a timely basis and satisfying the renewal requirements provided by law. The failure to renew a commission in a timely manner may cause the commission to be forfeited, if the attorney general finds that the failure was done knowingly; provided that a forfeited commission may be restored by the attorney general within one year after the date of forfeiture upon compliance with the commission renewal requirements provided by law and upon written application and payment of all applicable fees.”

SECTION 3. Section 456-3, Hawaii Revised Statutes, is amended to read as follows:

“§456-3 Seal. Every notary public shall constantly keep an engraved seal of office or a rubber stamp facsimile seal which shall clearly show, when embossed, stamped, or impressed upon a document, the notary’s name, and the words, “notary public” and “State of Hawaii.” The notary public shall authenticate all the notary’s official acts, attestations, certificates, and instruments therewith, and shall always add to an official signature the typed or printed name of the notary and a statement showing the date that the notary’s commission expires. Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office, the notary public shall immediately deliver the notary’s seal to the attorney general who shall deface or destroy the same. If any notary fails to comply with this section within ninety days of the date of the notary’s resignation, expiration of term of office without reappointment, or removal from or abandonment of office or if the notary’s personal representative fails to comply with this section within ninety days of the notary’s death, then the notary public or the notary’s personal representative shall forfeit to the State not more than \$200, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the State.”

SECTION 4. Section 456-5, Hawaii Revised Statutes, is amended to read as follows:

“§456-5 Official bond. Each notary public forthwith and before entering upon the duties of the notary’s office shall execute, at the notary’s own expense, an official surety bond which shall be in the sum of \$1,000. Each bond shall be approved by a judge of the circuit court.

The obligee of each bond shall be the State and the condition contained therein shall be that the notary public will well, truly, and faithfully perform all the duties of the notary’s office which are then or may thereafter be required, prescribed, or defined by law or by any rule [or regulation] made under the express or implied authority of any statute, and all duties and acts undertaken, assumed, or performed by the notary public by virtue or color of the notary’s office. The surety on any such bond shall be a surety company authorized to do business in the State. After approval the bond shall be deposited and kept on file in the office of the clerk of the circuit court of the judicial circuit in which the notary public resides. The clerk shall keep a book to be called the “bond record”, in which the clerk shall record such data in respect to each of the bonds deposited and filed in the clerk’s office as the attorney general may direct.”

SECTION 5. Section 456-8, Hawaii Revised Statutes, is amended to read as follows:

“§456-8 Rules. The attorney general, subject to chapter 91, may prescribe such rules [and regulations] as the attorney general deems advisable concerning the administration of this chapter, the appointment and duties of notaries public, and the duties of other officers thereunder. The rules [or regulations] shall have the force and effect of law.”

SECTION 6. Section 456-9, Hawaii Revised Statutes, is amended to read as follows:

“§456-9 Fees. (a) The attorney general shall charge and collect the following fees for :

- (1) [For issuing] Issuing the original commission, [~~\$35;~~] \$40; and
- (2) [For renewal of] Renewing the commission, [~~\$15.]~~ \$40.

[The clerk of each circuit court shall charge and receive the following fees:

For filing a copy of a commission, \$3;

For each certificate of authentication, \$1.]

Notwithstanding the foregoing, the attorney general may establish and adjust fees pursuant to chapter 91.

The foregoing fees collected by the attorney general shall be deposited into the notaries public revolving fund established by section 456-, except that if that fund is terminated, the foregoing fees shall thereafter be deposited with the director of finance to the credit of the general fund.

(b) The court fees for filing a copy of a commission and for each certificate of authentication shall be specified by the supreme court."

SECTION 7. Section 456-18, Hawaii Revised Statutes, is amended to read as follows:

"§456-18 Notaries in government service. Except as otherwise provided for by law, the head of every department (which term as used in this chapter includes any department, board, commission, bureau, or establishment of the United States, or of the State, or any political subdivision thereof) may designate one or more of the head of every department's subordinates to be a notary public who, upon duly qualifying and receiving a commission as a notary public in government service, shall perform, without charge, the services of a notary public in all matters of business pertaining to the State, any political subdivision thereof, or the United States.

Any provision of this chapter to the contrary notwithstanding, a subordinate so designated and thus qualified and commissioned as a notary public in government service shall:

- (1) Be authorized to perform the duties of a notary public in one or more of the judicial circuits of the State as the attorney general shall designate;
- (2) Not be required to:
 - (A) [to pay] Pay any fee to the clerk of any circuit court for filing a copy of the notary's commission;
 - (B) [to pay] Pay any fee to the attorney general for the issuance of the notary's commission or the renewal thereof; or
 - (C) [to furnish] Furnish and file an official bond unless [such] that bond is required by the head of the department in which the notary is a subordinate, in which event, the expense of furnishing any such bond shall be borne by the department concerned; and
- (3) Not demand or receive any fee for the notary's service as a notary public; provided that where the occasion, in the judgment of the head of the department, is deemed one of urgent necessity and convenience, the notary may, but shall not be compelled to, administer oaths or take acknowledgments in nongovernmental matters, for which services the prescribed fees shall be demanded and received as governmental realizations and covered into the notaries public revolving fund established by section 456-, except that if that fund is terminated, the fees shall thereafter be deposited into the general fund of the State; provided further that with the prior written approval of the attorney general, the notary public, upon paying the fees prescribed by law and upon executing, depositing, and filing at the notary's own expense, the required official bond, may demand or receive the fees prescribed by

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law for services rendered by the notary in matters not pertaining to such public business.”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

Note

1. Edited pursuant to HRS §23G-16.5.